

# THE POLITICS AND THEORY OF COMPARATIVE CONSTITUTIONALISM

JPJ 2036: 1995-1996

Professors Jennifer Nedelsky and Peter Russell

Volume 2

(Weeks Six to Twelve inclusive)

Faculty of Law University of Toronto

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Mondays: 2-4 p.m.

#### Solarium

#### Nature of the Course:

The course will explore the theory and practice of constitutionalism in modern democracies. Topics to be covered in the first term will include the nature of constitutionalism, popular sovereignty, property rights, aboriginal rights, the constitutionalization of positive rights, equality rights, free speech issues and mega constitutional politics. Canada, the United States, South Africa and Australia are among the countries we will discuss. The second term will be based on topics and countries which students have selected for their research papers.

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WEEK SIX:
A. Claassens, For Whites Only - Land Ownership in S.A
G. Budlender, The Right to Equitable Access to Land
Submission to Theme Group 4 on the Property Clause
A.J. van der Walt, Rights and Reforms in Property Theory
A.J. van der Walt, Towards a theory of rights in property, Overview III: Customary-law rights in property
WEEK SEVEN: Constitutionalization of Positive Rights
Craig Scott and Patrick Macklem, "Constitutional Ropes of Sand Justiciable Guarantees? Social Rights in a New South African Constitution" 141 University of Pennsylvania L.R. 1 (1992)
WEEK EIGHT: Equality Issues
Andrews v. Law Society of British Columbia

CN V. Canada (Human Rights Commission)	. 280
Egan et al v. The Queen	. 303
Stone, et al pp. 641-667, Constitutional Law, From Fullilove to Croson: The Employment Cases	. 346
WEEK NINE:	
Hour 1	
Adarand Constructors Inc. v. Federico Pena	. 365
Regina v. Willocks	. 386
Paul E. Johnson v. Transportation Agency, Santa Clara County	. 397
Hour 2	
National Citizens' Coalition Inc	. 414
Buckley v. Valeo	. 423
WEEK TEN:	
R.A.V. v. City of St. Paul, Minnesota	. 432
The Queen v. James Keegstra	. 438
The Mephisto Case	. 459
WEEK ELEVEN:	
Stone, et al, Constitutional Law, Note: Pornography and Feminism	. 467
W. Berns, Beyond the (Garbage) Pale	. 470
R. v. Butler	. 483
WEEK TWELVE:	
P. Russell, The Nature of Constitutional Politics	. 491